

COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT

SENATE AMENDMENTS TO H.B. 2356

(Reference to House engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and dealership of manufactured buildings. Sales for resale to another dealership of manufactured buildings are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. The proceeds from alteration and repairs to a used manufactured building are taxable under this section.

B. The tax base for the prime contracting classification is sixty-five per cent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be

1 subject to the taxes imposed by article 1 of this chapter separately and
2 distinctly from the sale of the manufactured building.

3 4. The gross proceeds of sales or gross income received from a
4 contract entered into for the construction, alteration, repair, addition,
5 subtraction, improvement, movement, wrecking or demolition of any building,
6 highway, road, railroad, excavation, manufactured building or other
7 structure, project, development or improvement located in a military reuse
8 zone for providing aviation or aerospace services or for a manufacturer,
9 assembler or fabricator of aviation or aerospace products within an active
10 military reuse zone after the zone is initially established or renewed under
11 section 41-1531. To be eligible to qualify for this deduction, before
12 beginning work under the contract, the prime contractor must have applied for
13 a letter of qualification from the department of revenue.

14 5. The gross proceeds of sales or gross income derived from a contract
15 to construct a qualified environmental technology manufacturing, producing or
16 processing facility, as described in section 41-1514.02, and from subsequent
17 construction and installation contracts that begin within ten years after the
18 start of initial construction. To qualify for this deduction, before
19 beginning work under the contract, the prime contractor must obtain a letter
20 of qualification from the department of revenue. This paragraph shall apply
21 for ten full consecutive calendar or fiscal years after the start of initial
22 construction.

23 6. The gross proceeds of sales or gross income from a contract to
24 provide for one or more of the following actions, or a contract for site
25 preparation, constructing, furnishing or installing machinery, equipment or
26 other tangible personal property, including structures necessary to protect
27 exempt incorporated materials or installed machinery or equipment, and
28 tangible personal property incorporated into the project, to perform one or
29 more of the following actions in response to a release or suspected release
30 of a hazardous substance, pollutant or contaminant from a facility to the
31 environment, unless the release was authorized by a permit issued by a
32 governmental authority:

1 (a) Actions to monitor, assess and evaluate such a release or a
2 suspected release.

3 (b) Excavation, removal and transportation of contaminated soil and
4 its treatment or disposal.

5 (c) Treatment of contaminated soil by vapor extraction, chemical or
6 physical stabilization, soil washing or biological treatment to reduce the
7 concentration, toxicity or mobility of a contaminant.

8 (d) Pumping and treatment or in situ treatment of contaminated
9 groundwater or surface water to reduce the concentration or toxicity of a
10 contaminant.

11 (e) The installation of structures, such as cutoff walls or caps, to
12 contain contaminants present in groundwater or soil and prevent them from
13 reaching a location where they could threaten human health or welfare or the
14 environment.

15 This paragraph does not include asbestos removal or the construction or use
16 of ancillary structures such as maintenance sheds, offices or storage
17 facilities for unattached equipment, pollution control equipment, facilities
18 or other control items required or to be used by a person to prevent or
19 control contamination before it reaches the environment.

20 7. The gross proceeds of sales or gross income that is derived from a
21 contract entered into for the installation, assembly, repair or maintenance
22 of machinery, equipment or other tangible personal property that is deducted
23 from the tax base of the retail classification pursuant to section 42-5061,
24 subsection B, or that is exempt from use tax pursuant to section 42-5159,
25 subsection B, and that does not become a permanent attachment to a building,
26 highway, road, railroad, excavation or manufactured building or other
27 structure, project, development or improvement. If the ownership of the
28 realty is separate from the ownership of the machinery, equipment or tangible
29 personal property, the determination as to permanent attachment shall be made
30 as if the ownership were the same. The deduction provided in this paragraph
31 does not include gross proceeds of sales or gross income from that portion of
32 any contracting activity which consists of the development of, or

1 modification to, real property in order to facilitate the installation,
2 assembly, repair, maintenance or removal of machinery, equipment or other
3 tangible personal property that is deducted from the tax base of the retail
4 classification pursuant to section 42-5061, subsection B or that is exempt
5 from use tax pursuant to section 42-5159, subsection B. For the purposes of
6 this paragraph, "permanent attachment" means at least one of the following:

7 (a) To be incorporated into real property.

8 (b) To become so affixed to real property that it becomes a part of
9 the real property.

10 (c) To be so attached to real property that removal would cause
11 substantial damage to the real property from which it is removed.

12 8. Through December 31, 2009, the gross proceeds of sales or gross
13 income received from a contract for constructing any lake facility
14 development in a commercial enhancement reuse district that is designated
15 pursuant to section 9-499.08 if the prime contractor maintains the following
16 records in a form satisfactory to the department and to the city or town in
17 which the property is located:

18 (a) The certificate of qualification of the lake facility development
19 issued by the city or town pursuant to section 9-499.08, subsection D.

20 (b) All state and local transaction privilege tax returns for the
21 period of time during which the prime contractor received gross proceeds of
22 sales or gross income from a contract to construct a lake facility
23 development in a designated commercial enhancement reuse district, showing
24 the amount exempted from state and local taxation.

25 (c) Any other information that the department considers to be
26 necessary.

27 9. The gross proceeds of sales or gross income attributable to the
28 purchase of machinery, equipment or other tangible personal property that is
29 exempt from or deductible from transaction privilege and use tax under:

30 (a) Section 42-5061, subsection A, paragraph 25 or 29.

31 (b) Section 42-5061, subsection B.

1 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
2 (c), (d), (e), (f), (i), (j) or (l).

3 (d) Section 42-5159, subsection B.

4 10. The gross proceeds of sales or gross income received from a
5 contract for the construction of an environmentally controlled facility for
6 the raising of poultry for the production of eggs and the sorting, cooling
7 and packaging of eggs.

8 11. The gross proceeds of sales or gross income that is derived from a
9 contract entered into with a person who is engaged in the commercial
10 production of livestock, livestock products or agricultural, horticultural,
11 viticultural or floricultural crops or products in this state for the
12 construction, alteration, repair, improvement, movement, wrecking or
13 demolition or addition to or subtraction from any building, highway, road,
14 excavation, manufactured building or other structure, project, development or
15 improvement used directly and primarily to prevent, monitor, control or
16 reduce air, water or land pollution.

17 12. The gross proceeds of sales or gross income that is derived from
18 the installation, assembly, repair or maintenance of clean rooms that are
19 deducted from the tax base of the retail classification pursuant to section
20 42-5061, subsection B, paragraph 17.

21 13. For taxable periods beginning from and after June 30, 2001, the
22 gross proceeds of sales or gross income derived from a contract entered into
23 for the construction of a residential apartment housing facility that
24 qualifies for a federal housing subsidy for low income persons over sixty-two
25 years of age and that is owned by a nonprofit charitable organization that
26 has qualified under section 501(c)(3) of the internal revenue code.

27 14. For taxable periods beginning from and after December 31, 1996 and
28 ending before January 1, 2011, the gross proceeds of sales or gross income
29 derived from a contract to provide and install a solar energy device. The
30 contractor shall register with the department as a solar energy contractor.
31 By registering, the contractor acknowledges that it will make its books and

1 records relating to sales of solar energy devices available to the department
2 for examination.

3 15. The gross proceeds of sales or gross income derived from a contract
4 entered into for the construction of a launch site, as defined in 14 Code of
5 Federal Regulations section 401.5.

6 16. The gross proceeds of sales or gross income derived from a contract
7 entered into for the construction of a domestic violence shelter that is
8 owned and operated by a nonprofit charitable organization that has qualified
9 under section 501(c)(3) of the internal revenue code.

10 17. The gross proceeds of sales or gross income derived from contracts
11 to perform postconstruction treatment of real property for termite and
12 general pest control, including wood destroying organisms.

13 18. The gross proceeds of sales or gross income received from contracts
14 entered into before July 1, 2006 for constructing a state university research
15 infrastructure project if the project has been reviewed by the joint
16 committee on capital review before the university enters into the
17 construction contract for the project. For the purposes of this paragraph,
18 "research infrastructure" has the same meaning prescribed in section 15-1670.

19 19. The gross proceeds of sales or gross income received from a
20 contract for the construction of any building, or other structure, project,
21 development or improvement owned by a qualified business under section
22 41-1516 for harvesting or the initial processing of qualifying forest
23 products removed from qualifying projects as defined in section 41-1516 if
24 actual construction begins before January 1, 2010. To qualify for this
25 deduction, the prime contractor must obtain a letter of qualification from
26 the department of commerce before beginning work under the contract.

27 20. The gross proceeds of sales or gross income received from a
28 contract for the construction of any building or other structure associated
29 with motion picture production in this state. To qualify for the deduction,
30 at the time the contract is entered into the motion picture production
31 company must present to the prime contractor its certificate that is issued

1 pursuant to section 42-5009, subsection H and that establishes its
2 qualification for the deduction.

3 ~~21. Any amount of the gross proceeds of sales or gross income from a~~
4 ~~contract that constitutes development or impact fees paid to the state or a~~
5 ~~local government to offset governmental costs of providing public~~
6 ~~infrastructure, public safety and other public services to a development.~~

7 21. ANY AMOUNT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME
8 ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO A CONTRACT
9 FOR CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND THAT ARE
10 PAID BY A PRIME CONTRACTOR OR SUBCONTRACTOR. FOR THE PURPOSES OF THIS
11 PARAGRAPH:

12 (a) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE
13 DEVELOPMENT FEES ACTUALLY IMPOSED.

14 (b) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF
15 DEVELOPMENT FEES PAID IN CASH BY THE PRIME CONTRACTOR OR SUBCONTRACTOR, AND
16 THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE CONSTRUCTION OF,
17 CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING PUBLIC
18 INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO THE
19 DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT FEES.

20 (c) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF
21 PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A
22 DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR
23 TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

24 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
25 of this section is subject to the following provisions:

26 1. A prime contractor may establish entitlement to the deduction by
27 both:

28 (a) Marking the invoice for the transaction to indicate that the gross
29 proceeds of sales or gross income derived from the transaction was deducted
30 from the base.

31 (b) Obtaining a certificate executed by the purchaser indicating the
32 name and address of the purchaser, the precise nature of the business of the

1 purchaser, the purpose for which the purchase was made, the necessary facts
2 to establish the deductibility of the property under section 42-5061,
3 subsection B, and a certification that the person executing the certificate
4 is authorized to do so on behalf of the purchaser. The certificate may be
5 disregarded if the prime contractor has reason to believe that the
6 information contained in the certificate is not accurate or complete.

7 2. A person who does not comply with paragraph 1 of this subsection
8 may establish entitlement to the deduction by presenting facts necessary to
9 support the entitlement, but the burden of proof is on that person.

10 3. The department may prescribe a form for the certificate described
11 in paragraph 1, subdivision (b) of this subsection. The department may also
12 adopt rules that describe the transactions with respect to which a person is
13 not entitled to rely solely on the information contained in the certificate
14 provided in paragraph 1, subdivision (b) of this subsection but must instead
15 obtain such additional information as required in order to be entitled to the
16 deduction.

17 4. If a prime contractor is entitled to a deduction by complying with
18 paragraph 1 of this subsection, the department may require the purchaser who
19 caused the execution of the certificate to establish the accuracy and
20 completeness of the information required to be contained in the certificate
21 which would entitle the prime contractor to the deduction. If the purchaser
22 cannot establish the accuracy and completeness of the information, the
23 purchaser is liable in an amount equal to any tax, penalty and interest which
24 the prime contractor would have been required to pay under article 1 of this
25 chapter if the prime contractor had not complied with paragraph 1 of this
26 subsection. Payment of the amount under this paragraph exempts the purchaser
27 from liability for any tax imposed under article 4 of this chapter. The
28 amount shall be treated as a transaction privilege tax to the purchaser and
29 as tax revenues collected from the prime contractor in order to designate the
30 distribution base for purposes of section 42-5029.

31 D. Subcontractors or others who perform services in respect to any
32 improvement, building, highway, road, railroad, excavation, manufactured

1 building or other structure, project, development or improvement are not
2 subject to tax if they can demonstrate that the job was within the control of
3 a prime contractor or contractors or a dealership of manufactured buildings
4 and that the prime contractor or dealership is liable for the tax on the
5 gross income, gross proceeds of sales or gross receipts attributable to the
6 job and from which the subcontractors or others were paid.

7 E. Amounts received by a contractor for a project are excluded from
8 the contractor's gross proceeds of sales or gross income derived from the
9 business if the person who hired the contractor executes and provides a
10 certificate to the contractor stating that the person providing the
11 certificate is a prime contractor and is liable for the tax under article 1
12 of this chapter. The department shall prescribe the form of the certificate.
13 If the contractor has reason to believe that the information contained on the
14 certificate is erroneous or incomplete, the department may disregard the
15 certificate. If the person who provides the certificate is not liable for
16 the tax as a prime contractor, that person is nevertheless deemed to be the
17 prime contractor in lieu of the contractor and is subject to the tax under
18 this section on the gross receipts or gross proceeds received by the
19 contractor.

20 F. Every person engaging or continuing in this state in the business
21 of prime contracting or dealership of manufactured buildings shall present to
22 the purchaser of such prime contracting or manufactured building a written
23 receipt of the gross income or gross proceeds of sales from such activity and
24 shall separately state the taxes to be paid pursuant to this section.

25 G. For the purposes of section 42-5032.01, the department shall
26 separately account for revenues collected under the prime contracting
27 classification from any prime contractor engaged in the preparation or
28 construction of a multipurpose facility, and related infrastructure, that is
29 owned, operated or leased by the tourism and sports authority pursuant to
30 title 5, chapter 8.

31 H. The gross proceeds of sales or gross income derived from a contract
32 for lawn maintenance services are not subject to tax under this section if

1 the contract does not include landscaping activities. Lawn maintenance
2 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
3 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
4 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
5 lawn de-thatching, seeding winter lawns, leaf and debris collection and
6 removal, tree or shrub pruning or clipping, garden and gravel raking and
7 applying pesticides, as defined in section 3-361, and fertilizer materials,
8 as defined in section 3-262.

9 I. The gross proceeds of sales or gross income derived from
10 landscaping activities are subject to tax under this section. Landscaping
11 includes installing lawns, grading or leveling ground, installing gravel or
12 boulders, planting trees and other plants, felling trees, removing or
13 mulching tree stumps, removing other imbedded plants, building or modifying
14 irrigation berms, repairing sprinkler or watering systems, installing
15 railroad ties and installing underground sprinkler or watering systems.

16 J. The portion of gross proceeds of sales or gross income attributable
17 to the actual direct costs of providing architectural or engineering services
18 that are incorporated in a contract is not subject to tax under this section.
19 For the purposes of this subsection, "direct costs" means the portion of the
20 actual costs that are directly expended in providing architectural or
21 engineering services.

22 K. Operating a landfill or a solid waste disposal facility is not
23 subject to taxation under this section, including filling, compacting and
24 creating vehicle access to and from cell sites within the landfill.
25 Constructing roads to a landfill or solid waste disposal facility and
26 constructing cells within a landfill or solid waste disposal facility may be
27 deemed prime contracting under this section.

28 L. The following apply to manufactured buildings:

29 1. For sales in this state where the dealership of manufactured
30 buildings contracts to deliver the building to a setup site or to perform the
31 setup in this state, the taxable situs is the setup site.

1 2. For sales in this state where the dealership of manufactured
2 buildings does not contract to deliver the building to a setup site or does
3 not perform the setup, the taxable situs is the location of the dealership
4 where the building is delivered to the buyer.

5 3. For sales in this state where the dealership of manufactured
6 buildings contracts to deliver the building to a setup site that is outside
7 this state, the situs is outside this state and the transaction is excluded
8 from tax.

9 M. Notwithstanding subsection N, paragraph 8 of this section, a person
10 owning real property who enters into a contract for sale of the real
11 property, who is responsible to the new owner of the property for
12 modifications made to the property in the period subsequent to the transfer
13 of title and who receives a consideration for the modifications is considered
14 a prime contractor solely for purposes of taxing the gross proceeds of sale
15 or gross income received for the modifications made subsequent to the
16 transfer of title. The original owner's gross proceeds of sale or gross
17 income received for the modifications shall be determined according to the
18 following methodology:

19 1. If any part of the contract for sale of the property specifies
20 amounts to be paid to the original owner for the modifications to be made in
21 the period subsequent to the transfer of title, the amounts are included in
22 the original owner's gross proceeds of sale or gross income under this
23 section. Proceeds from the sale of the property ~~THAT ARE~~ received after
24 transfer of title ~~AND~~ that are unrelated to the modifications made subsequent
25 to the transfer of title ~~will~~ ~~ARE~~ not ~~be~~ considered gross proceeds of sale or
26 gross income from the modifications.

27 2. If the original owner enters into an agreement separate from the
28 contract for sale of the real property providing for amounts to be paid to
29 the original owner for the modifications to be made in the period subsequent
30 to the transfer of title to the property, the amounts are included in the
31 original owner's gross proceeds of sale or gross income received for the
32 modifications made subsequent to the transfer of title.

1 3. If the original owner is responsible to the new owner for
2 modifications made to the property in the period subsequent to the transfer
3 of title and derives any gross proceeds of sale or gross income from the
4 project subsequent to the transfer of title other than a delayed disbursement
5 from escrow unrelated to the modifications, it is presumed that the amounts
6 are received for the modifications made subsequent to the transfer of title
7 unless the contrary is established by the owner through its books, records
8 and papers kept in the regular course of business.

9 4. The tax base of the original owner is computed in the same manner
10 as a prime contractor under this section.

11 N. For the purposes of this section:

12 1. "Contracting" means engaging in business as a contractor.

13 2. "Contractor" is synonymous with the term "builder" and means any
14 person or organization that undertakes to or offers to undertake to, or
15 purports to have the capacity to undertake to, or submits a bid to, or does
16 personally or by or through others, modify any building, highway, road,
17 railroad, excavation, manufactured building or other structure, project,
18 development or improvement, or to do any part of such a project, including
19 the erection of scaffolding or other structure or works in connection with
20 such a project, and includes subcontractors and specialty contractors. For
21 all purposes of taxation or deduction, this definition shall govern without
22 regard to whether or not such contractor is acting in fulfillment of a
23 contract.

24 3. "Dealership of manufactured buildings" means a dealer who either:

25 (a) Is licensed pursuant to title 41, chapter 16 and who sells
26 manufactured buildings to the final consumer.

27 (b) Supervises, performs or coordinates the excavation and completion
28 of site improvements, setup or moving of a manufactured building including
29 the contracting, if any, with any subcontractor or specialty contractor for
30 the completion of the contract.

31 4. "Manufactured building" means a manufactured home, mobile home or
32 factory-built building, as defined in section 41-2142.

1 5. "Modification" means construction, alteration, repair, addition,
2 subtraction, improvement, movement, wreckage or demolition.

3 6. "Modify" means to construct, alter, repair, add to, subtract from,
4 improve, move, wreck or demolish.

5 7. "Prime contracting" means engaging in business as a prime
6 contractor.

7 8. "Prime contractor" means a contractor who supervises, performs or
8 coordinates the modification of any building, highway, road, railroad,
9 excavation, manufactured building or other structure, project, development or
10 improvement including the contracting, if any, with any subcontractors or
11 specialty contractors and who is responsible for the completion of the
12 contract. Except as provided in subsections E and M of this section, a
13 person who owns real property, who engages one or more contractors to modify
14 that real property and who does not itself modify that real property is not a
15 prime contractor within the meaning of this paragraph regardless of the
16 existence of a contract for sale or the subsequent sale of that real
17 property.

18 9. "Sale of a used manufactured building" does not include a lease of
19 a used manufactured building.

20 Sec. 2. Section 42-6004, Arizona Revised Statutes, is amended to read:

21 42-6004. Exemption from municipal tax

22 A. A city, town or special taxing district shall not levy a
23 transaction privilege, sales, use or other similar tax on:

24 1. Exhibition events in this state sponsored, conducted or operated by
25 a nonprofit organization that is exempt from taxation under section
26 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
27 organization is associated with a major league baseball team or a national
28 touring professional golfing association and no part of the organization's
29 net earnings inures to the benefit of any private shareholder or individual.

30 2. Interstate telecommunications services, which include that portion
31 of telecommunications services, such as subscriber line service, allocable by
32 federal law to interstate telecommunications service.

1 3. Sales of warranty or service contracts.

2 4. Sales of motor vehicles to nonresidents of this state for use
3 outside this state if the vendor ships or delivers the motor vehicle to a
4 destination outside this state.

5 5. Interest on finance contracts.

6 6. Dealer documentation fees on the sales of motor vehicles.

7 7. Through December 31, 2009, the gross proceeds of sales or gross
8 income received from a contract from constructing any lake facility
9 development in a commercial enhancement reuse district established pursuant
10 to section 9-499.08.

11 8. Sales of food or other items purchased with United States
12 department of agriculture food stamp coupons issued under the food stamp act
13 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
14 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
15 section 4302; 42 United States Code section 1786) but may impose such a tax
16 on other sales of food. If a city, town or special taxing district exempts
17 sales of food from its tax or imposes a different transaction privilege rate
18 on the gross proceeds of sales or gross income from sales of food and nonfood
19 items, it shall use the definition of food prescribed by rule adopted by the
20 department pursuant to section 42-5106.

21 9. Sales of internet access services to the person's subscribers and
22 customers. For the purposes of this paragraph:

23 (a) "Internet" means the computer and telecommunications facilities
24 that comprise the interconnected worldwide network of networks that employ
25 the transmission control protocol or internet protocol, or any predecessor or
26 successor protocol, to communicate information of all kinds by wire or radio.

27 (b) "Internet access" means a service that enables users to access
28 content, information, electronic mail or other services over the internet.
29 Internet access does not include telecommunication services provided by a
30 common carrier.

1 10. The gross proceeds of sales or gross income retained by the Arizona
2 exposition and state fair board from ride ticket sales at the annual Arizona
3 state fair.

4 11. Through August 31, 2014, sales of Arizona centennial medallions by
5 the historical advisory commission.

6 B. A city, town or other taxing jurisdiction shall not levy a
7 transaction privilege, sales, use, franchise or other similar tax or fee,
8 however denominated, on natural gas or liquefied petroleum gas used to propel
9 a motor vehicle.

10 C. A city, town or other taxing jurisdiction shall not levy a
11 transaction privilege, sales, gross receipts, use, franchise or other similar
12 tax or fee, however denominated, on gross proceeds of sales or gross income
13 derived from any of the following:

14 1. A motor carrier's use on the public highways in this state if the
15 motor carrier is subject to a fee prescribed in title 28, chapter 16,
16 article 4.

17 2. Leasing, renting or licensing a motor vehicle subject to and upon
18 which the fee has been paid under title 28, chapter 16, article 4.

19 3. The sale of a motor vehicle and any repair and replacement parts
20 and tangible personal property becoming a part of such motor vehicle to a
21 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
22 article 4 and who is engaged in the business of leasing, renting or licensing
23 such property.

24 4. Incarcerating or detaining in a privately operated prison, jail or
25 detention facility prisoners who are under the jurisdiction of the United
26 States, this state or any other state or a political subdivision of this
27 state or of any other state.

28 5. Transporting for hire persons, freight or property by light motor
29 vehicles subject to a fee under title 28, chapter 15, article 4.

30 6. Through December 31, 2009, and except as provided in section
31 42-6104, a contract from constructing any lake facility development in a

1 commercial enhancement reuse district established pursuant to section
2 9-499.08.

3 ~~7. Development or impact fees included in a construction or~~
4 ~~development contract for payment to the state or a local government to offset~~
5 ~~governmental costs of providing public infrastructure, public safety and~~
6 ~~other public services to a development.~~

7 7. ANY AMOUNT ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN
8 RELATION TO THE CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND
9 PAID BY THE TAXPAYER AS DEFINED IN THE MODEL CITY TAX CODE OR BY A CONTRACTOR
10 PROVIDING SERVICES TO THE TAXPAYER. FOR THE PURPOSES OF THIS PARAGRAPH:

11 (a) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE
12 DEVELOPMENT FEES ACTUALLY IMPOSED.

13 (b) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF
14 DEVELOPMENT FEES PAID IN CASH BY THE TAXPAYER OR BY A CONTRACTOR PROVIDING
15 SERVICES TO THE TAXPAYER AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE
16 FOR THE CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR
17 PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES
18 NECESSARY TO THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE
19 DEVELOPMENT FEES.

20 (c) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF
21 PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A
22 DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR
23 TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

24 D. A city, town or other taxing jurisdiction shall not levy a
25 transaction privilege, sales, use, franchise or other similar tax or fee,
26 however denominated, in excess of one-tenth of one per cent of the value of
27 the entire product mined, smelted, extracted, refined, produced or prepared
28 for sale, profit or commercial use, on persons engaged in the business of
29 mineral processing, except to the extent that the tax is computed on the
30 gross proceeds or gross income from sales at retail.

1 E. In computing the tax base, any city, town or other taxing
2 jurisdiction shall not include in the gross proceeds of sales or gross
3 income:

4 1. A manufacturer's cash rebate on the sales price of a motor vehicle
5 if the buyer assigns the buyer's right in the rebate to the retailer.

6 2. The waste tire disposal fee imposed pursuant to section 44-1302.

7 Sec. 3. Retroactivity

8 Section 42-5075, subsection B, paragraph 21 and section 42-6004,
9 subsection C, paragraph 7, Arizona Revised Statutes, as amended by this act,
10 are intended to clarify Laws 2006, chapter 386 and are retroactive to taxable
11 periods beginning from and after August 31, 2006. Nothing in this act shall
12 be construed to expand the scope of the provisions of Laws 2006, chapter
13 386."

14 Amend title to conform

04/09/2008

1:35 PM

C: slp